

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES GRZESLO,

Plaintiff,

v.

B. SUAZO,

Defendant.

1:21-cv-01371-JLT-EPG (PC)

ORDER GRANTING PLAINTIFF A
FINAL EXTENSION OF TIME TO FILE
HIS STATEMENT

(ECF No. 59)

Plaintiff James Grzelso is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff's First Amendment claim against Defendant Suazo.

On April 13, 2023, this Court entered an order requiring the parties to file statements regarding scheduling and discovery within 30 days from the date of service of the order. (ECF No. 57). Upon Plaintiff's request, the Court extended the deadline for him to file his statement to June 19, 2023. (ECF No. 59). However, Plaintiff still has not filed his statement.

The Court recognizes that Plaintiff has filed a petition for writ of mandamus in the Ninth Circuit. (ECF No. 61). However, this filing does not prevent the Court from moving the case forward by entering a schedule, and the Court cannot progress the case without Plaintiff's statement.¹

¹ See *Ellis v. U.S. Dist. Ct. for W. Dist. of Washington (Tacoma)*, 360 F.3d 1022, 1023 (9th Cir. 2004) ("Indeed, in the context of an extraordinary writ such as mandamus, there is no need for us to relinquish our jurisdiction to the district court because it was never deprived of jurisdiction over the underlying case. See, e.g., *Woodson v. Surgitek, Inc.*, 57 F.3d 1406, 1416 (5th Cir.1995). The district court does not lose jurisdiction over a case merely because a litigant files an interlocutory petition for an extraordinary writ. See *id.*").

Accordingly, IT IS ORDERED as follows:

1. Plaintiff will be given a final extension to July 14, 2023, to file his statement.
2. If Plaintiff fails to comply with this order, he is advised that this action may be dismissed.

IT IS SO ORDERED.

Dated: **June 27, 2023**

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE